

FIRST REGULAR SESSION

SENATE BILL NO. 134

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHEELER.

Pre-filed December 22, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

0569S.01I

AN ACT

To amend chapter 82, RSMo, by adding thereto five new sections relating to city ordinances.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 82, RSMo, is amended by adding thereto five new sections, to be known as sections 82.301, 82.302, 82.303, 82.304, and 82.305, to read as follows:

82.301. As used in sections 82.301 to 82.305, the following words mean:

(1) "Neighborhood organization", an organization defined in section 32.105, RSMo;

(2) "Local code violation", a violation under the provisions of a local code of general ordinances of any home rule city with more than four hundred thousand inhabitants and located in more than one county, which regulates fire prevention, animal control, noise control, property maintenance, building construction, health and sanitation, and nuisances;

(3) "Nuisance", within the boundaries of the community represented by the neighborhood organization, an act or condition knowingly created, performed, or maintained on private property that constitutes a local code violation and that:

- (a) Significantly affects the other residents of the neighborhood;
- (b) Diminishes the value of the neighboring property; and
- (c) Is injurious to public health, safety, or welfare of neighboring residents or obstructs the reasonable use of other property in the neighborhood.

82.302. Sections 82.301 to 82.304 apply to a nuisance located within the boundaries of any home rule city with more than four hundred thousand inhabitants and located in more than one county.

82.303. 1. A neighborhood organization representing persons aggrieved by a local code violation may seek injunctive and other equitable relief in the circuit court for abatement of a nuisance upon showing:

- (1) The notice requirements of this subsection have been satisfied; and

(2) The nuisance exists and has not been abated.

2. An action under this section may not be brought:

(1) Until sixty days after the neighborhood organization sends notice of the violation and of the neighborhood organization's intent to bring an action under this section, by certified mail, return receipt requested, to the appropriate municipal code enforcement agency;

(2) If the appropriate municipal code enforcement agency has filed an action for equitable relief from the nuisance;

(3) Until sixty days after the neighborhood organization sends notice by first-class, prepaid postage certified mail to the tenant, if any, and the property owner of record that a nuisance exists and that legal action may be taken if the nuisance is not abated. If the notice sent by certified mail is returned unclaimed or refused, designated by the post office to be undeliverable, or signed for by a person other than the addressee, then adequate and sufficient notice may be given to the tenant, if any, and the property owner of record by sending a copy of the notice by regular mail and posting a copy of notice on the property where the nuisance allegedly is occurring. The notice shall specify:

(a) The nature of the alleged nuisance;

(b) The date and time of day the nuisance was first discovered;

(c) The location on the property where the nuisance is allegedly occurring;

and

(d) The relief sought in the action.

3. In filing a suit under this section, an officer of the neighborhood organization shall certify to the court:

(1) That the neighborhood organization has taken the required steps to satisfy the notice requirements under this subsection; and

(2) That each condition precedent to the filing of the action under this section has been met.

4. An action may not be brought against an owner of residential rental property unless, prior to giving notice under this section, a notice of violation relating to the nuisance first has been issued by an appropriate municipal code enforcement agency and remains outstanding after a period of forty-five days.

5. (1) If a violation notice issued by an appropriate municipal code enforcement agency is an essential element of the municipal enforcement action, a copy of the notice signed by an official of the appropriate municipal code enforcement agency shall be prima facie evidence of the facts contained in the notice.

(2) A notice of abatement issued by the appropriate municipal code

enforcement agency in regard to the violation notice shall be prima facie evidence that the plaintiff is not entitled to the relief requested.

6. A proceeding under this section shall:

- (1) Be heard at the earliest practicable date; and
- (2) Be expedited in every way.

82.304. A political subdivision of the state or any agency of a political subdivision may not be subject to any action brought under this section or an action resulting from an action brought under this section against a private property owner.

82.305. 1. Subject to subsection 2 of this section, sections 82.301 to 82.304 may not be construed as to abrogate any equitable or legal right or remedy otherwise available under the law to abate a nuisance.

2. Sections 82.301 to 82.304 may not be construed as to grant standing for an action:

- (1) Challenging any zoning application or approval;
- (2) In which the alleged nuisance consists of an interior physical defect of a property; or
- (3) Involving any violation of municipal alcoholic beverages law.

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